

## **Remarks**

These Remarks are in reply to the Office Action mailed November 8, 2004.

Claims **1-26** and **28-56** were pending in the Application prior to the outstanding Office Action. Applicants point out that the Office Action Summary incorrectly stated that only claims 1-3, 5, 6, 8-12, 21, 23, 26, 28-31, 33 and 39-56 are pending. However, it is clear from the prosecution history that claims 4, 7, 13-20, 22, 24, 25, 32 and 34-38 are still pending in their original form. Claim 27 was the only claim canceled in the last Reply and Amendment filed June 30, 2004.

No claims are currently being amended or canceled. New claims 57-63 are being added. Accordingly, claims **1-26** and **28-63** remain for the Examiner's consideration.

Applicants would like to thank the Examiner for indicating that Applicants' arguments in the Reply and Amendment filed June 30, 2004, with respect to the previous 35 U.S.C. 102 and 103 rejections, and the previous obviousness-type double patenting rejections, were considered and deemed persuasive (with the exception of the double patenting rejection based on U.S. Patent Application No. 10/074,096).

The Examiner has maintained his obviousness-type double patenting rejection based on U.S. Patent Application No. 10/074,096. More specifically, claims 1-3, 5-6, 8-12, 21, 23, 26, 28-31, 33 and 39-56 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over co-pending U.S. Patent Application No. 10/074,096. Applicants do not necessarily agree with this rejection. However, to expedite issuance of a patent, Applicants are submitting a Terminal Disclaimer herewith, as recommended in the Office Action. Accordingly, Applicants respectfully request that the non-

statutory double patenting rejection be withdrawn, and that allowance of pending claims **1-26** and **28-56** be indicated.

The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: November 17, 2004

By: Jeffrey R. Kurin  
Jeffrey R. Kurin  
Reg. No. 41,132

Customer No. 23910  
Fliesler Meyer LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: 415/362-3800  
Facsimile: 415/362-2928